their intra-state rates and sued to enjoin interference by the Illinois state authorities. *Held*, that the uncertainty in the order as to the points to which it is applicable renders it inoperative as to intra-state rates. *Ill. Cent. R. R. Co.* v. *Public Utilities Com. of Illinois*, 38 Sup. Ct. Rep. 170.

An order of the commission which is so general as to amount merely to a restatement of the legal duties of the carrier or of the prohibitions of the Interstate Commerce Act will not be enforced by the courts. *Farmers' Loan & Trust Co.* v. *Northern Pacific Ry. Co.*, 83 Fed. 249; *Southern Pacific Co.* v. *Colo. Fuel & Iron Co.*, 101 Fed. 779, aff'd in 22 Sup. Ct. Rep. 954. An order may, however, like a decree of court, under some circumstances, merely prescribe the end to be attained, and leave a wide discretion to the carrier as to the means of effecting that end. *Houston, etc. Ry. Co.* v. *United States*, 221 U. S. 1; *Carpenter* v. *Easton & Amboy R. Co.*, 28 N. J. Eq. 390. Thus a carrier may be ordered to cease an unlawful discrimination arising from the maintenance of lower rates to one point than to another similarly situated, allowing the carrier the option of raising the former rates or lowering the latter, or changing both. *Houston, etc. Ry. Co.* v. *United States, supra; Adams Express Co.* v. *South Dakota*, 244 U. S. 617. And although an order is in itself two indefinite to be enforced, if it can be made sufficiently definite for intelligent performance by reference to the report of the commission it will be given effect by the courts. *Adams Express Co.* v. *South Dakota, supra*. Where the rates producing the discrimination are wholly interstate, a remedial order of the commission might be held valid, although it failed to specify the precise points between which the new schedule should be operative, leaving it to the courts or the commission to make any subsequent limitations found proper. See *Behlmer* v. *Louisville etc. R. Co.*, 83 Fed. 898, affirmed in 175 U. S. 648; *Philadelphia, etc. Ry. Co.* v. *United States*, 219 Fed. 988. Where, however, the order also permits a readjustment of intra-state rates, a conflict with state authority is encountered. The power of the Interstate Commerce Commission to effect intra-state rates extends only so far as it is necessary to prevent discrimination against interstate commerce, or to remove any other direct burden on such commerce. See *Gibbons* v. *Ogden*, 9 Wheat. (U. S.) 1, 145; *Houston, etc. Ry. Co.* v. *United States* (*Shreveport Rate Case*), 234 U. S. 342. Therefore the commission must find in the case of each intra-state rate altered that it is a burden on interstate commerce, and may not leave the territory and points to which the order applies uncertain and at the discretion of the carrier, because there is a general discrimination against interstate commerce. See *American Express Co.* v. *Caldwell*, 244 U. S. 617, 625.

LIBEL AND SLANDER — PRIVILEGED COMMUNICATIONS — PETITIONS TO A PUBLIC OFFICER. — A petition against renewing the plaintiff's license was widely circulated in a community to obtain signatures, charging the plaintiff in obviously exaggerated phrases with keeping a disorderly saloon. This occurred six months before plaintiff's license would terminate; the plaintiff had not requested a renewal. As a petition for revocation it did not conform to the statutory requirements. *Held*, on demurrer, that the communication was not privileged. *Koehler* v. *Dubose*, 200 S. W. 238 (Texas).

In certain situations it seems the better policy not to place upon the petitioner the risk of having spirited language subsequently construed as evidence of actual malice, and therefore in those cases the law has allowed an absolute privilege. Thus petitions to the legislature pertinent to matters before the proceeding are so privileged. See *Cook* v. *Hill*, 3 Sandf. (N. Y.) 341, 350. It has been held that a petition to the governor for the pardon of a criminal is absolutely privileged, on the ground that it is in the nature of a paper filed in a judicial proceeding. *Connellee* v. *Blanton*, 163 S. W. 404 (Texas). In most cases, however, petitions to public officers are only qualifiedly privileged, *i. e.*,

privileged unless actual malice is shown. A communication to a proper public officer as to a suspicion of crime is so regarded. *Mueller* v. *Radebaugh*, 79 Kan. 306, 99 Pac. 612. The same is true of complaints made to public officers concerning the alleged misconduct of a subordinate. *Tyree* v. *Harrison*, 100 Va. 540, 42 S. E. 295; *Howarth* v. *Barlow*, 99 N. Y. Supp. 457. A petition to the proper official against the issuing of a teacher's license is qualifiedly privileged. *Wieman* v. *Mabee*, 45 Mich. 484. *Cf. Bodwell* v. *Osgood*, 3 Pick. (Mass.) 379. Similarly, a communication to the proper official as to alleged misconduct of a saloon proprietor enjoys a qualified privilege. *Coloney* v. *Farrow*, 39 N. Y. Supp. 460. This is so even though the petition has been circulated for signatures. *Vanderzee* v. *McGregor*, 12 Wend. (N. Y.) 545. The communication, however, must be made at a reasonable time and in a reasonable manner. This was not done in the principal case. See *Werner* v. *Ascher*, 86 Wis. 349, 56 N. W. 869.

MUNICIPAL CORPORATIONS — TERRITORIAL LIMITS — *QUO WARRANTO*. — As the result of an accident upon a highway, the question arose whether the highway was within the jurisdiction of a certain city or an adjoining township Both deny jurisdiction over the disputed tract of land. The state brought *quo warranto* against the city to determine its true boundary. The city contended that *quo warranto* would not lie to correct its conduct in confining its territorial jurisdiction within too narrow limits. *Held*, that *quo warranto* was the proper proceeding. *State ex rel. Ramsey* v. *City of Hutchinson*, 169 Pac. 1140 (Kan.).

Quo warranto is appropriate to test the legality of the exercise of a public franchise. It is held the proper proceeding to determine the right of a municipal corporation to exercise jurisdiction over added territory. *East Dallas* v. *State*, 73 Texas, 370, 11 S. W. 1030; *People* v. *City of Peoria*, 166 Ill. 517, 46 N. E. 1075. But it is difficult to see how the writ can be maintained where as in the principal case the converse situation is involved. As there has been no usurpation of a franchise, the writ is unavailing. *Attorney-General* v. *City of Salem*, 103 Mass. 138. The fact that two suits may be necessary to fix liability for the accident on either the city or the township, shows the need of procedural reforms, permitting joinder in the alternative, but it does not justify torturing *quo warranto* to serve an unintended purpose.

PATENTS — NATURE AND REQUISITES FOR PATENT — EFFECT OF SECRET USE OF DEVICE ON RIGHT TO PATENT. — The plaintiff, who had invented a process for the manufacture of glass, and who, having used it for ten years in secret, placing the product on public sale, had patented the process when he could no longer keep it secret, sued the defendant for infringement of his patent. The patent law provides that in such a suit it should be a defense that the invention had been "abandoned to the public" before the application for the patent. (REV. STAT. § 4920.) *Held*, that the plaintiff could not recover, since he had abandoned the invention to the public. *Macbeth-Evans Glass Co.* v. *General Electric Co.*, 246 Fed. 695.

The patent laws specify no time after the invention within which a patent must be applied for. Mere delay in applying for a patent, where there are no intervening rights, does not forfeit the right to secure it. *Bates* v. *Coe*, 98 U. S. 31. It is difficult to see how the use of a process in secret, with the continuing purpose of applying for a patent as soon as the secret can no longer be kept, is an abandonment of the process, and an abandonment to the public. The decision can, however, be supported on another ground. The purpose of the patent laws, as set forth in the United States Constitution, is "to promote the progress of science and useful arts by securing for limited times to . . . inventors the exclusive right to their respective . . . discoveries." U. S. CONST.,